

DEPARTMENT OF DEFENSE BLOGGERS' ROUNDTABLE
WITH COLONEL MARK MARTINS

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THIS IS A RUSH TRANSCRIPT.

COL. MARTINS: (Fed in progress) -- proceedings were initiated by the Iraqis in a new and secure facility against -- (audio break) -- instigated for crimes against the Iraqi people. The al Qaeda suspect was accused of killing scores of civilians, and the Shi'a national police officer was accused of torturing and abusing Sunni detainees that were in his custody. And this really represents, we believe, a small step forward -- (audio break).

(In progress following audio break) -- proceedings were initiated by the Iraqis in a new and secure facility against two people. One was an alleged Sunni al Qaeda operative, and the other was a Shi'a national police officer, and both were -- had proceedings instigated for crimes against the Iraqi people. The al Qaeda suspect was accused of killing scores of civilians, and the Shi'a national police officer was accused of torturing and abusing Sunni detainees that were in his custody.

And this really represents, we believe, a small step forward for the Iraqi government on two fronts. One is the political will to embrace the rule of law, and the second is the capacity to render justice through secure and legitimate proceedings.

So why don't I go ahead and take some questions.

MODERATOR: Okay. John.

Q Colonel Martin (sic), I was reading your "Letter from Baghdad" in the Harvard Law Journal.

COL. MARTINS: Yes.

Q I write for Defense Technology International. I noted your line about how information technology has revolutionized your field legal practice.

COL. MARTINS: Yes.

Q I was wondering if you could say just a little bit more about what kind of technology you're using and how precisely that's helping your practice over there in Baghdad.

COL. MARTINS: Well, I mean, we use -- you know, we've got all manner of unclassified databases, Google and so forth, that get us to a lot of the things that are now hung on the Web. We do use Lexis and Westlaw, you know, law databases. There's a Judge Advocate General's Corps Net that provides us a lot of additional materials that aren't readily available outside.

I kind of want to -- if you don't mind --

MODERATOR: No.

COL. MARTINS: -- I wouldn't mind returning a little bit to the -- what happened in Baghdad that was so interesting yesterday, because again, I'm more interested, frankly, in talking about Iraqis today. I thought that it was a pretty significant step.

But, yeah, we have all manner of databases that are available to any world-class, worldwide law firm, and it's a firm we think is very capable, as I kind of mentioned. I think you're referring to a Law Bulletin from last fall?

Q Right.

COL. MARTINS: Right.

Q Right.

COL. MARTINS: That was from -- that was a question from John?.

MODERATOR: Yes.

Q Yes.

COL. MARTINS: Oh, great. Thanks, John.

Q Yeah.

COL. MARTINS: Okay.

MODERATOR: Okay. And Victoria.

Q Colonel Martins, this is Victoria Kurtz (sp). This is slightly off your main topic today but I think related. I'm working on a piece on the status of the cultural patrimony of Iraq right now, and so I was curious to know your thoughts generally on the legal framework that might be developing to address those issues. And in a specific context, a British judge recently ruled against the Iranian government in a case regarding some looted antiquities, because, in the judge's opinion, the Iranians had not fulfilled their responsibility to establish legal ownership of their own cultural patrimony, even when it was looted. And I know, given the sort of broader issues facing the Iraqi legal system, that this might seem like a powder-puff issue, but since the proceeds from illegally trafficked antiquities are fueling the insurgency, I was wondering if this might become a practical priority (to you all ?) and given to --

COL. MARTINS: Well, I mean, you raise the point generally that the rule of law -- I was commenting on the rule of law being -- it's hard, not being in criminal justice, not who you are but what you did, which I think was, as so importantly represented yesterday in the hearings that I mentioned, but the rule of law is certainly broader than that. And this cultural patrimony issue that you raise, Victoria, is -- you know, taps into the larger need for the rule of law. I mean, it's a broader principle of governance and that ensures that all institutions are accountable, including the state, including people who may be in official positions selling off important relics and so forth. I would defer on that issue to others here in the U.S. diplomatic mission who have been working that issue, and so I could take any additional questions you have and try to get them to the right people.

How's that?

Q That would be great. I can e-mail them to you or something.

COL. MARTINS: Maybe I should elaborate a little bit more on kind of -- I haven't fully explored some of the things that happened yesterday that were of interest. And I don't want to overstate what happened. It's the rule of law, this idea that it's not who you are, but what you did; not what religious sect or what region or what tribe, but what you did to other Iraqis that was represented yesterday. You know, it doesn't exist

fully in Iraq yet, certainly. And, Victoria, your comment I think is a reflection of that as well.

But what happened yesterday is a step forward in the right direction, and it opens a window, we think, for reconciliation -- again, just a window, just a crack, a small step for lasting reconciliation to be achieved. The government, and eventually the people, must reject revenge for whatever reason and accept the rule of law. And the cases that occurred yesterday involve allegations of barbaric acts, and one of them was in the name of terrorist and religious extremism, and the other was, you know, sectarian reprisal by a national policeman under color of law. And both of these were -- began to be dealt with yesterday in a new and secure complex that the Iraqis have built in the heart of Baghdad that allows, you know, police courts and prisons, the three big pieces of the criminal justice system, to work together securely. So that the proceedings that were then undertaken show that the politics of revenge and fanaticism can be replaced, they can be. This isn't the end of the story by any means, but little by little they can be replaced by the rule of law. And as you know, the Iraqi name for the operation that we're in right now is Fard al-Qanun, which means, roughly, "impose the law." And though still in its early stages, that operation I believe made this advance yesterday possible.

Q Colonel, how long did it take -- this is a practical question -- to build that new secure complex?

COL. MARTINS: About two months, Victoria, with a lot of very impressive cooperation between the Ministry of Justice and the Ministry of Interior. We've been supporting it wherever we can. But they identified the land that could be used. It actually is a building upon prior infrastructure that was there, and refurbishing it, securing it in a new way; integrating several different compounds, making them complete and then integrating them into a secure complex. But that effort has taken about -- a little over two months. And it's still ongoing; we're still improving it.

Yesterday, the Iraqis demonstrated the sort of proof of principle, and it's kind of significant as a statement about these themes that I mentioned before, rejecting revenge, and the hope that if you give them -- or help them achieve security, that they'll reject that and embrace the rule of law.

Q Does the new complex have a proper name?

COL. MARTINS: It is -- they're referring it to (sic) as the rule of law complex in Baghdad, in Rusafa. It's in the Rusafa district.

Q In Rusafa --

COL. MARTINS: We've referred to it -- I'll tell you, we've referred to it in some of our discussions as sort of a rule of law Green Zone, is how we discuss it in the -- within the coalition. But they're calling it a rule of law complex.

MODERATOR: And Colonel Bay (sp)?

Q Yeah, let me -- I'm sitting here making notes on this. How do you interact with the Iraqi government, Colonel Martins? I mean, do you interact with them at an advisory capacity? An official level? Do you advise directly Iraqi lawyers and Iraqi judiciary? Do you have policemen working with the police to act as models for how policemen operate under the rule of law in a democracy?

COL. MARTINS: That's great question. There's interaction at a lot of levels. I'm the staff judge advocate for General Petraeus, and as such I have a staff role to advise and assist him in a range of functions relating to law and just to be sort of the managing partner for the legal personnel in country who are in uniform.

The -- our -- within the U.S. mission, the Department of Justice works in a liaison and an advisory capacity with Chief Justice Medhat, Medhat Mahmoud, who is the --

Q Can you spell his name for me, please?

COL. MARTINS: Medhat -- yeah. In English it's spelled M-E-D-H-A-T. Mahmoud --

Q Mahmoud is his last name?

COL. MARTINS: Yeah, Mahmoud -- well, Medhat, you know, that -- his father's name was Mahmoud, so in the Arab name structure, Medhat --

Q No, no, no, I understand that.

COL. MARTINS: Yeah.

Q Sure.

COL. MARTINS: Medhat. Mahmoud is M-A-H-M-O-U-D.

Q No, I've got that.

COL. MARTINS: Yeah.

Q But he's chief justice of the Iraqi supreme court?

COL. MARTINS: Well, he is a -- he's the head of their Higher Juridical Council, and he's called the chief justice. But the Iraqis don't yet have a --

Q No, no, I understand that. The juridical court, then, is the one that actually deals with criminal justice issues as well.

COL. MARTINS: Right. Right. Right. Right.

Well, no, he's -- yeah, he's not in the Court of Cassation. But he's their senior person in their Higher Juridical Council, which, as you know, is the main supervisory arm and organ in their judiciary, which is not -- of course not yet fleshed out by the legislation as required by the constitution.

I'm sorry, go ahead.

Q And -- well, go ahead. You were going to explain how you relate that --

COL. MARTINS: Yeah, yeah, how the other -- how I relate. Well, I'm -- again, I'm General Petraeus' advisor. I often accompany the Department of Justice attache in talking to the chief justice. If there's a security matter that relates to Justice, I will, you know, have a role in helping coordinate that, helping support the judiciary. As you may know, the Department of Defense has a mission under a National Security Presidential Directive to help organize, train, equip, build capacity in the Iraqi security forces, and as the police are one part of the Iraqi security forces, a robust investigative capability, finding evidence, collecting evidence of a crime is a function that's properly in Iraq under our division of labor within the U.S. government in DOD.

So I wind up interacting with police and police investigators, as do transition teams that -- I'm confident you've heard of the police transition teams that are in Multinational Security Transition Command, which is one of the subordinate commands of MNF-I. So -- and there are relationships -- transition team relationships with Iraqi elements, units, throughout the police, so I'm at one level of interchange. And again, the U.S. embassy interacts with Iraqi officials in an advisory liaison diplomatic capacity. Our coalition partners, 26 coalition partners in the coalition also have advisors in here who speak with them on issues of rule of law.

Q I'm going to ask you this question, and if you want me to show you why I ask it, I'll tell you a little story that goes along with it.

COL. MARTINS: Okay.

Q How receptive do you find the Iraqi police to discussing non-coercive investigation/interrogation techniques?

COL. MARTINS: Well, as you may know, I mean, in their system a concession is a very strong mode of demonstrating guilt, and that is something -- I think I actually -- I think it was Sean (sp) who was talking about the Harvard Law Bulletin article I wrote in that; that trying to wean them or persuade them that forensic evidence, physical evidence is powerful and subject to -- or worthy of deference and employment in criminal trials is often a challenge. But the police -- our transition teams, I -- you know, I would -- if you really want to have someone authoritative speak to that, I would defer you to the -- or refer you to our Iraqi advisory group and those who --

Q No, no, I'd love to do that. But what have you -- I'm asking you for your impression. That's it. Your impression is they're receptive, yes, no?

COL. MARTINS: I'm in -- my impression is that there are a lot of national police that, you know, ask questions, and I think there are others that see the need to question and seek a confession, I should say, try to get a confession out of an accused. And that's kind of the -- one of the functions of this rule of law, corridor or complex is to bring the police closer to the judiciary, where they can see how in a court where allegations of abuse may be raised by a defense counsel or come out in court as casting aspersion on a confession, that that interaction takes place between Iraqi's own system of government, within its own organs of government, rather than from us, which can often seem as an external imposing Western view. But that's actually one of the things that we saw an achievement out of yesterday --

Q All right, here's my follow-up question on that, though.

COL. MARTINS: Go ahead, what's your follow-up question?

Q The thing is, what you're -- you're dealing with the rule of law, giving them alternative. One of the things you're trying to address are elements of honor, culture and, of course, personal, tribal or clan revenge. Is that correct?

COL. MARTINS: The rule of law is a rejection of the politics of revenge and that seems to be what we saw yesterday. I mean, look, you got to give them their due. It's a step forward. The government made a step toward reconciliation, rejecting revenge. That's exactly what these two alleged criminals in their own way -- and I've got to emphasize that in the Iraqi system there is a presumption of innocence and they're innocent until proven guilty in court. But that's what these two cases represent, is a rejection of that, of revenge and exacting something from someone in your custody, in one case, under the color of law, and submitting it to a court.

And I should emphasize, too, you know, I think this was made possible by improved security. If you secure them, that there's a way to open a space for that.

Q Can we get -- Jack -- the AP bulletin or some connection to get the names of these two alleged criminals, the Shi'a cop and the al Qaeda operative?

COL. MARTINS: We cannot give you the names. The Iraqis didn't release the names yesterday, they released initials. And in fact, during the hearing, very interestingly, they had a shot of it -- it was on closed circuit video, they had a shot that obscured the face of the accused and you could only see kind of the hands of the investigative judge who was questioning him. And there was a -- you know, a blockage that occurred every time an identifying piece of information was mentioned.

Q That's interesting. That's interesting.

COL. MARTINS: Yeah, they're having to reconcile, you know, the concerns about security of everybody involved and the importance of public transmission of these things. But they're -- you know, what they're doing is a balancing of those two important things. Can't underestimate, you know, what people may do, what barbaric acts they may undertake to silence these people who are coming forward. But it was -- for that reason, it was a very impressive thing yesterday.

Q Colonel, what's the next step, what would be the sort of next legal process that would occur that would suggest that this window was either being taken advantage of or being closed?

COL. MARTINS: Well, you know, they have to build additional capacity. This was in many ways a demonstration of a proof of principle. They opened the court in this secure compound. It was attended by, very interestingly, Vice President Hashimi, the senior Sunni in the government. There was Deputy Minister of Justice Pusho was there. He's a Kurd. Deputy Minister of Interior Adnan al-Asari (ph), the deputy minister of Interior for Administration was there, and then the government spokesman, Ali Dabbagh, was there. But, you know, a range of sects and political parties represented. They saw this investigative hearing, which needs to be followed, of course, if the investigative judge, after collecting all the remaining evidence, refers it to a trial panel.

A trial court will also be, Victoria, in that compound. They're going to build a much bigger courthouse, which should be done in early 2008, but there is a small courthouse there now. Chief Judge Medhat Mahmoud announced also yesterday that the fourth panel of the Central Criminal Court of Iraq would sit in this small courthouse, and has assigned both a trial panel and investigative judges and judicial investigators to this complex.

So the next step is to develop these cases, to assign investigators to additional major crimes cases and to bring them through the Iraqi process, which, you may be familiar, is a central role to an investigative judge, who develops the dossier, not unlike what you see in European civil law systems -- France, Germany -- develops the case and then refers it to a trial panel that depends heavily on this dossier that was developed by the investigative judge during the investigation. So, develop the cases, move them as appropriate to trial, depending on if the evidence is there, and then try them.

Right in that same complex are pre-trial confinement and post-trial confinement prison spaces that are humane, that meet international standards. On that same complex you also have the need in the coming weeks and months to integrate more police investigators, who did important work, interestingly, on both of these cases to integrate them more into the process of building evidence-based, transparent cases against major criminals.

I should also mention the prime minister on 7 February announced in a state of emergency measure -- as you may know, Iraq is still under a state of emergency that's

getting renewed monthly by the Council of Representatives. He announced that the major crimes of the emergency would be tried by the Central Criminal Court of Iraq, which shall sit in emergency session.

So the chief executive has emphasized the need to have the central criminal court take on major criminals who are trying to undermine the authority of the state. So this was, you know, kind of the physical first step of that on -- yesterday.

We think, you know, between 6 and 10 cases -- when this thing starts going at full capacity in May and June, 6 to 10 cases a week. But of course, that's just a rough estimate. Each case is individual, and it will require as much time and effort in the investigation and trial as is needed by the alleged offenses.

MODERATOR: All right, sir. We've just got a few minutes left for this call. Are there any last minute questions?

Q I'll ask another question.

MODERATOR: Sure.

Q I watched on the Pentagon Channel a media roundtable last week with Mark Fox and, I think, a counsel from the embassy maybe --

COL. MARTINS: Yeah, Jim Santelle. He's the Department of Justice attache, yeah.

Q Exactly.

My impression, Colonel Martins, was that the Arabic-speaking press, at least, wanted to try to press him on Multinational Forces operating outside of the rule of law. And I wondered if you could speak to, you know, your sense of the feeling about the Multinational Forces, you know, there in Iraq, and whether or not -- what the local perception is of our forces operating within the rule of law.

COL. MARTINS: Well you know, hey, again, I think it was you who raised the - my piece last month or last fall. I mean, I believe certainly we're -- we have 500 legal personnel in-country in the Multinational Force to ensure that we do everything we can to operate in the rule of law. We hold accountable soldiers, sailors, airmen, Marines who violate the law. We follow orders. We take every measure to investigate.

So I mean, perceptions are likely to abound in any counterinsurgency that rages such as this one. But you know, to come back to what happened in Iraq yesterday with the rule of law, it is -- this Fard al-Qanun seems to have made a window open up. And these -- the Iraqis will step forward.

I believe we certainly stepped forward in this regard, but Iraqis will step forward and condemn one of their own who's disgraced his uniform, as well as a fanatic who wants to hijack the country regardless of the cost to innocents. And these and similar cases, if they are tried in the coming weeks by the Iraqis, can open a window to reconciliation and to lasting security.

Q Thank you.

MODERATOR: All right, sir. Colonel Martins, thank you very much for being with us. We appreciate your time, and hopefully we can do this again.

Q Thank you very much. This is an extremely important subject and one that really doesn't get a lot of treatment, but it's absolutely crucial to strategic -- positive strategic out there. No question.

COL. MARTINS: Well, thank you for your interest in this. This is the kind of thing that isn't as dramatic as some other things you might see, and if you don't spend a little time looking at it, it can kind of pass you by.

Q Well, let me ask you that. Why is it not as dramatic? It seems extremely dramatic to me. You mean, it's just not sensational?

COL. MARTINS: Well, it's not glamorous, it's not spectacular. The rule of law works often in little steps. It often works -- it's a methodical, deliberative thing that integrates evidence and reason, and those things are calm and deliberate in many -- when properly invoked and applied. And so this kind of thing tends not to, you know, not to be sensational.

But I certainly think it's dramatic. I mean, as a lawyer, I think it's -- what happened yesterday was dramatic; a small step -- I don't want to overstate it -- a small step, the opening of a window. It provides hope that they can reject the politics of revenge and fanaticism. But it is dramatic. I concur in that.

Q You know, that's -- here's -- I'm responding to this as a writer, journalist, but also a historian. If you come out and you tell me -- and which you did just a moment ago -- that, well, it's not dramatic? You know, I could just -- you just -- after we had talked it, well, General, it is. This is huge. It really is huge, and -- I mean, I'm not providing you with advice on how to express that. But I'll tell you what, I'm sitting here and looking at it as the kind of peace that it is part of evolutionary change in Iraq, this is big stuff. It's big stuff.

COL. MARTINS: Well, I concur it's big stuff --

Q I'm not trying to -- (inaudible) -- I'm just trying to tell you --

COL. MARTINS: No, no. I appreciate that. I think it's important -- you know, I've got to look at results on the ground and not get so exuberant about this that I don't see and ensure that there's real movement associated with it. And it was just an investigation, and it was just the first couple of cases, and they still don't have the full complex fully put together. So, I mean, that's why you're getting from me a measured approach. It's still early days in Farad al-Qanun, too. And the surge that's making this possible is going to open other windows, we believe. But that's why you're getting restraint from me and a measured approach.

Q Oh, look, I'm not -- I don't mean to be sitting here taking you -- you sound like I'm taking you to task on it. It's just the thing is, when I saw this --

COL. MARTINS: No, no. I understand. I tell you, I'm cheered by your enthusiasm.

Q Well --

COL. MARTINS: I am cheered by that.

Q Well, be cheered by it. (Inaudible) -- actually implement, as you said, is extremely hard, isn't it? Extremely hard.

COL. MARTINS: That's right. And you have to give them their due today. This was a very, very important, if small and -- it's a little step, a very important one.

MODERATOR: Thank you very much, Colonel. Appreciate your time.

COL. MARTINS: Thanks so much.

Q Hey, Jack, thanks for arranging this. This is a great one.

MODERATOR: All right. Thank you.

Q It's great.

COL. MARTINS: Thank you.

Goodbye.

Q Bye, Jack. I'll talk to you tomorrow.

MODERATOR: Okay.

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